



On December 10, House Democrats announced that we have achieved transformational changes to the USMCA for American workers. After months of tough negotiating, Democrats have secured landmark changes, delivering an agreement that is infinitely stronger than the deeply flawed first draft of USMCA the Trump Administration had put forward.

ENFORCEMENT

Original USMCA Draft	USMCA with Democrats' Changes
Allowed Panel Blocking: Any country could block the formation of a dispute settlement panel, stopping an enforcement complaint from ever being heard.	Prevents Panel Blocking: Democrats removed this language allowing a responding party to block the formation of a dispute settlement panel.
Weak Enforcement Hearing Process: Enforcement proceedings would have been hampered by unclear procedures regarding evidence and treatment of witnesses.	Rules of Evidence: Democrats added rules to help the United States more successfully litigate labor, environmental, and other fact-intensive disputes.

PROTECTING AMERICAN WORKERS

Original USMCA Draft	USMCA with Democrats' Changes
"Sustained or Recurring" Threshold for Anti-Worker Violence: would have required U.S. to prove that anti-worker violence was "sustained or recurring" before enforcement measures could be taken.	Removes "Sustained or Recurring" Requirement so that acts of anti-worker violence can be more easily confronted and violations enforced.
Stacked The Deck Against Labor Violation Claims: included a requirement that to prove a labor violation, the complaining party had to prove that it was "in a manner affecting trade or investment."	Creates a new presumption that a labor violation affects trade and investment and will require the other government to prove otherwise.
Self-Policing Forced Labor: allowed the parties to determine for themselves what measures were "appropriate," hampering enforcement.	Removes Self-Policing Loophole on forced labor.

<p>Weak Labor Monitoring: did not provide enough resources or guidelines to adequately monitor that our trading partners are providing labor rights and living up to their obligations.</p>	<p>Establishes Labor Attachés that will be based in Mexico and will provide on-the-ground information about Mexico’s labor practices.</p> <p>Establishes key benchmarks for Mexico’s labor reform implementation process. Failure to comply with these benchmarks will lead to enforcement action under the agreement</p> <p>Creates an interagency committee that will monitor Mexico’s labor reform implementation and compliance with labor obligations.</p> <p>Creates ongoing reporting requirements to Congress.</p>
<p>Weak Labor Enforcement: Did not contain strong enough provisions to ensure that our trading partners live up to strong labor standards.</p>	<p>Established a New & Enhanced Labor-Specific Enforcement Mechanism:</p> <ul style="list-style-type: none"> • Takes immediate effect upon entry into force of the agreement; • Provides for facility-based enforcement of labor obligations in the agreement within a rapid timeframe; • Covers all manufactured goods and all services traded between the United States and Mexico; • Requires verification of compliance by independent labor experts; and <p>Leads to penalties on goods and services that are not produced in compliance with the freedom of association and collective bargaining obligations</p>

ENVIRONMENT

Original USMCA Draft	USMCA with Democrats’ Changes
<p>Stacked Deck Against Environmental Violation Claims: Included a requirement that to prove an environment violation, the complaining party had to prove that it was “in a manner affecting trade or investment”</p>	<p>Creates a presumption that an environmental violation affects trade and investment and will require the other government to prove otherwise.</p>

<p>Weak environmental rules: Failed to meet the standard set by House Democrats in 2007 that Parties had to adopt, implement and maintain seven multilateral environment agreements (MEAs).</p> <p>Eliminated safeguard from NAFTA that prioritized MEA commitments when implementing MEA and trade agreement obligations.</p>	<p>Added commitment that all Parties will adopt, implement, and maintain the seven MEA and additional language that allows all Parties to agree to add to the list of covered MEAs.</p> <p>Restores protections that prioritize MEA commitments when implementing MEA and trade agreement obligations.</p>
<p>Weak Environment Monitoring: Did not provide enough resources or infrastructure to adequately monitor that our trading partners are living up to their environmental obligations.</p>	<p>Establishes Environment-Focused Attachés in Mexico City that will regularly monitor Mexico's environment laws, regulations, and practices.</p> <p>Creates an interagency committee that will</p> <ul style="list-style-type: none"> • Conduct an assessment of the current environment landscape of Canada and Mexico; • Monitor implementation of the environment obligations and recommend enforcement actions; • Help coordination, utilization & funding of U.S. efforts to strengthen environment practices amongst parties.

PRESCRIPTION DRUGS

Original USMCA Draft	USMCA with Democrats' Changes
<p>Locked in at least 10 years of market exclusivity for biologics, some of the most expensive drugs on the market.</p>	<p>Provision removed</p>
<p>Locked in Patent Evergreening: required the Parties to confirm that patents would be available for new uses of known products. This provision would have locked in the practice of "patent evergreening," in which pharmaceutical companies obtain hundreds of patents related to a product to block generic competition and price reductions.</p>	<p>Provision removed</p>

<p>Required three additional years of exclusivity for clinical information submitted in connection with new uses of previously-approved pharmaceutical products. This is another way that pharmaceutical companies delay competition and access to affordable medicines.</p>	<p>Provision removed</p>
<p>Failed to encourage competition in the drug markets.</p>	<p>Bolsters Generics & Biosimilars: Revised regulatory review provision to clarify the circumstances in which generic and biosimilar companies may use a patented invention so that they can obtain marketing approval on day one of patent expiration.</p> <p>Revised data protection provision to incorporate limitations in U.S. law that foster generic competition.</p>
<p>Abandoned key principles to improve access to medicines that House Democrats included in previous U.S. trade agreements with Peru, Panama, and Colombia.</p>	<p>Revised patent linkage provision to remove the “hard linkage” of regulatory approval and patent status. Under an annex to the agreement, Mexico must ensure that all interested parties receive notice and an opportunity to be heard. The revision also includes language that permits incentives for generic competition and improves transparency.</p> <p>Revised patent term adjustment provision to provide non-exhaustive examples of limitations on the adjustment of patent terms for regulatory delays.</p>